

Estate of Owensby vs. City of Cincinnati  
October 14, 2003

ROBERT BLAINE JORG

1

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

- - - - -  
ESTATE OF ROGER D. :  
OWENSBY JR., et al., :  
 :  
Plaintiffs, :  
vs. : Case No. 01-CV-769  
 : (Judge S. A. Spiegel)  
CITY OF CINCINNATI, :  
et al., :  
 :  
Defendants. :  
- - - - -

Videotaped deposition of ROBERT BLAINE JORG, a  
defendant herein, called by the plaintiffs for  
cross-examination, pursuant to the Federal Rules of  
Civil Procedure, taken before me, Wendy Davies  
Welsh, a Registered Diplomate Reporter and Notary  
Public in and for the State of Ohio, at the offices  
of Helmer, Martins & Morgan Co. LPA, 1900 Fourth &  
Walnut Centre, 105 East Fourth Street, Cincinnati,  
Ohio, on Tuesday, October 14, 2003, at 10:12 a.m.

**Estate of Owensby vs. City of Cincinnati**  
**October 14, 2003**

**ROBERT BLAINE JORG**

<p>1 APPEARANCES:</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 Paul B. Martins, Esq.  Don Stiens, Esq.  Helmer, Martins &amp; Morgan Co. LPA  Suite 1900, Fourth &amp; Walnut Centre  105 East Fourth Street  Cincinnati, Ohio 45202  Phone: (513) 421-2400</p> <p>7 John J. Helbling, Esq.  The Helbling Law Firm, L.L.C.  3672 Springdale Road  Cincinnati, Ohio 45251  Phone: (513) 923-9740</p> <p>10 On behalf of the Defendants City of Golf Manor,  Stephen Tilley, Roby Heiland and Chris  Campbell:</p> <p>12 Lynne Marie Longtin, Esq.  Rendigs, Fry, Kiely &amp; Dennis  900 Fourth &amp; Vine Tower  One West Fourth Street  Cincinnati, Ohio 45202-3688  Phone: (513) 381-9200</p> <p>15 On behalf of Defendants City of Cincinnati,  Darren Sellers, Jason Hodge:</p> <p>17 Geri Hernandez Geller, Esq.  Assistant City Solicitor  and  19 Julie F. Bissinger, Esq.  Chief Counsel  Department of Law  Room 214, City Hall  801 Plum Street  Cincinnati, Ohio 45202  Phone: (513) 352-3346</p>	<p>Page 2</p> <p>1 S T I P U L A T I O N S</p> <p>2 It is stipulated by and among counsel for the</p> <p>3 respective parties that the deposition of ROBERT</p> <p>4 BLAINE JORG, a defendant herein, called by the</p> <p>5 plaintiffs for cross-examination, pursuant to the</p> <p>6 Federal Rules of Civil Procedure, may be taken at</p> <p>7 this time by the notary; that said deposition may be</p> <p>8 reduced to writing in stenotype by the notary, whose</p> <p>9 notes may then be transcribed out of the presence of</p> <p>10 the witness; and that proof of the official</p> <p>11 character and qualifications of the notary is</p> <p>12 expressly waived.</p> <p>13 - - -</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p>1 APPEARANCES (Continued):</p> <p>2 On behalf of the Defendants Robert B. Jorg,  Patrick Caton, Jason Hodge, Victor Spellman and  Darren Sellers:</p> <p>4 Donald E. Hardin, Esq.  Hardin, Lefton, Lazarus &amp; Marks, LLC  915 Cincinnati Club Building  30 West Garfield Place  Cincinnati, Ohio 45202  Phone: (513) 721-7300</p> <p>7 Also present:</p> <p>8 Richard W. Grubb, Videographer</p> <p>9 Lisa Damstrom, Law Clerk</p> <p>10 Helmer, Martins &amp; Morgan Co., L.P.A.</p> <p>11 Wendy M. Weller, Paralegal</p> <p>12 Buckley King</p> <p>13 Mr. Roger Owensby  Mrs. Brenda Owensby  Mr. Shawn Owensby</p> <p>14 Patrick Edmund Caton</p> <p>15 Victor Spellman</p>	<p>Page 3</p> <p>1 I N D E X</p> <p>2 Examination by: Page</p> <p>3 Mr. Martins . . . . . 6</p> <p>4 Ms. Longtin . . . . . 227</p> <p>5 - - -</p> <p>6 E X H I B I T S</p> <p>7 Plaintiffs' Exhibit 1 . . . . . Page</p> <p>8 Plaintiffs' Exhibit 2 . . . . . 18</p> <p>9 Plaintiffs' Exhibit 3 . . . . . 25</p> <p>10 Plaintiffs' Exhibit 4 . . . . . 48</p> <p>11 Plaintiffs' Exhibit 5 . . . . . 48</p> <p>12 Plaintiffs' Exhibit 6 . . . . . 51</p> <p>13 Plaintiffs' Exhibit 7 . . . . . 58</p> <p>14 Plaintiffs' Exhibit 8 . . . . . 72</p> <p>15 Plaintiffs' Exhibit 9 . . . . . 86</p> <p>16 Plaintiffs' Exhibit 10 . . . . . 107</p> <p>17 Plaintiffs' Exhibit 11 . . . . . 132</p> <p>18 Plaintiffs' Exhibit 12 . . . . . 161</p> <p>19 Plaintiffs' Exhibit 13 . . . . . 165</p> <p>20 Plaintiffs' Exhibit 14 . . . . . 178</p> <p>21 Plaintiffs' Exhibit 15 . . . . . 199</p> <p>22 Plaintiffs' Exhibit 16 . . . . . 201</p> <p>23 Plaintiffs' Exhibit 17 . . . . . 206</p> <p>24 Plaintiffs' Exhibit 18 . . . . . 212</p> <p>25 - - -</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p>

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1 compliance to overcome his strength by getting his  
2 arm out. Just so we don't lose sight of that part.  
3 At that point, as soon as I gave him the  
4 commands, it was either twice or three times, his  
5 arm and his elbow -- his elbow moves up, his wrist  
6 starts to come up, I trap his wrist, I let go of the  
7 head, I come up. I give the arm to Pat as the  
8 handcuffing process is going on.  
9 Q. When's the Macing?  
10 A. I believe right, maybe the second before  
11 his arm pops out or as it's popping out. Might have  
12 been maybe a second before.  
13 Q. Before the handcuffs are applied or after?  
14 A. Before.  
15 Q. At the time -- and -- and who applies the  
16 Mace?  
17 A. Officer Hunter.  
18 Q. Did -- was Officer Hunter ever -- any part  
19 of Officer Hunter's body in contact with Mr.  
20 Owensby?  
21 A. I don't know.  
22 Q. At this point in time that you've  
23 described, where you have Mr. Owensby's arm out  
24 and -- left arm out, and you're giving it to Officer

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1 Caton for handcuffing, Officer Sellers and Officer  
2 Hodge are present?  
3 A. I believe so.  
4 Q. Now, we don't --  
5 A. Yes, they were. Yes, they were.  
6 Q. I'm sorry?  
7 A. Yes, they were.  
8 Q. We know where Officer Sellers was. He was  
9 on the other side of Sam's when you left him --  
10 A. Uh-huh.  
11 Q. -- correct? Do you know where Officer  
12 Hodge was before you had physical contact with Mr.  
13 Owensby?  
14 A. Where he was responding from?  
15 Q. Yes.  
16 A. I believe he was waiting for us in  
17 Roselawn Park.  
18 Q. And Roselawn Park is how far away from  
19 Sam's Carry Out?  
20 A. 100 yards, 200 yards. Not a big distance  
21 at all. At the end of Sam's, that's where the park  
22 begins, so.  
23 Q. And Officer Hodge was in plain clothes or  
24 old clothes --

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1 A. Yes.  
2 Q. -- correct? Along with Officer Larson?  
3 A. Lawson.  
4 Q. Lawson?  
5 A. Yes.  
6 Q. Did someone request the Macing?  
7 A. I believe Officer Caton did.  
8 Q. What do you recall, if -- if you recall,  
9 what did he say?  
10 A. I don't remember it at the time, but it  
11 was referred to me by both Pat and the other people  
12 that were there, "Mace this mother fucker."  
13 Q. And Officer Hunter applied the Mace --  
14 A. Correct.  
15 Q. -- correct? How far was Officer Hunter  
16 from Mr. Owensby?  
17 A. I don't know.  
18 Q. Did you raise Mr. Owensby's head so that  
19 Officer Hunter could apply the Mace?  
20 A. I believe that was my statement at  
21 Internal, so I would have to say that was the most  
22 accurate recollection of it, yes.  
23 Q. Well, did you?  
24 A. I don't remember.

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1 Q. When you raised Officer -- I'm sorry.  
2 When you raised Mr. Owensby's head to be Maced, how  
3 did you do that?  
4 A. I really don't know. I don't know at what  
5 point that happened, and I can't fully recall how it  
6 was done, if it was done.  
7 Q. Where were you when the Mace was applied?  
8 A. In the same position I referred to you as  
9 earlier. I was laying on the left side.  
10 Q. Were you still kneeling on the shoulder?  
11 A. No.  
12 Q. Where were your -- were you in a kneeling  
13 position?  
14 A. I don't remember.  
15 Q. What did Officer Hodge do to assist in the  
16 arrest of Mr. Owensby?  
17 A. The exact things, I'm -- I don't really  
18 recall. You're going to have to ask Officer Hodge.  
19 I do know he was helping with the right arm to come  
20 over and handcuff him. Exactly what he did, I don't  
21 know.  
22 Q. Did he use a PR-24?  
23 A. Uh, incorrectly, yes.  
24 Q. Okay. But, I mean, there was a billy club

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1 A. I don't remember.  
2 Q. What about Officer Hunter?  
3 A. I don't remember what he did.  
4 Q. Is it fair to say that all of these --  
5 that the -- these five officers, you, Officer Caton,  
6 Officer Hodge, Officer Hunter and Officer Sellers  
7 worked together in arresting Mr. Owensby?  
8 A. Uh, not Webster, but it sounds like a  
9 reasonable summation.  
10 Q. Would you describe it as a team effort?  
11 A. I guess.  
12 Q. On the -- on that evening -- earlier that  
13 evening, when you originally responded to Officer  
14 Hasse and Sellers' car and there was a suspect in  
15 the back seat, do you know why the suspect in the  
16 back seat had been arrested?  
17 A. Had to have been for a minor misdemeanor.  
18 That's what they were missing was the minor  
19 misdemeanor payout citation.  
20 Q. Did you know what it was?  
21 A. No.  
22 Q. Did you ever talk to that person?  
23 A. I don't remember if I did or not.  
24 Q. Do you recall whether or not the person

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1 was arrested for marijuana possession?  
2 A. Sounds familiar, but the exact arrest, I  
3 don't know.  
4 Q. Do you have any idea of how much marijuana  
5 the person had on him?  
6 A. Nope.  
7 Q. Do you know who the person was that was  
8 arrested?  
9 A. (shaking head).  
10 Q. No?  
11 A. No.  
12 MR. MARTINS: Why don't we take our break  
13 now.  
14 VIDEOGRAPHER: Off the record. The time  
15 is 1:55. We're changing to videotape number 3.  
16 (Lunch recess.)  
17 VIDEOGRAPHER: Time is 2:43 and we're back  
18 on the record. This is videotape number 3.  
19 BY MR. MARTINS:  
20 Q. Sir, when we were -- before we took the  
21 lunch break, we were at the point where Mr. Owensby  
22 had been handcuffed. What happened after that?  
23 A. Officer Caton -- it was basically time to  
24 get Mr. Owensby from the ground to the police car.

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1 At that point more cops started showing up. Golf  
2 Manor was the closest vehicle to us. They were  
3 asked if we could put Mr. Owensby in the back of  
4 their police car, being the closest one to us. So  
5 Officer Caton goes back down, attempts to pick Mr.  
6 Owensby up by his pants, if I can remember  
7 correctly. And with the spandex in them or whatever  
8 elastic it was, it stretched and he didn't come up  
9 off the ground.  
10 Q. At this point in time was Mr. Owensby  
11 moving?  
12 A. Yes.  
13 Q. How so?  
14 A. Pretty much the typical person after  
15 they've been Maced, kind of wincing the eyes and  
16 trying to roll to their side. Typical response that  
17 we've had.  
18 Q. Did you see this?  
19 A. Yes.  
20 Q. You personally saw him wincing his eyes?  
21 A. Yes, because he's rolling --  
22 Q. Or blinking --  
23 A. He's rolling up on --  
24 Q. -- blinking his eyes?

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1 A. Yes. He's slightly kind of going on his  
2 side, wincing the eyes. The typical response we  
3 have with the --  
4 Q. So then, you also saw that his head was  
5 cut?  
6 A. I saw a light bit of blood there, yes.  
7 Q. You-- all right.  
8 A. Kind of a road rash scenario.  
9 Q. Where was he cut?  
10 A. From what I saw, it looked like over the  
11 left temple -- or not temple, temple's over here.  
12 Left eyebrow.  
13 Q. What about on the right side of the face?  
14 A. Didn't see anything there.  
15 Q. Did you notice any other cuts on him?  
16 A. Not at that time, no.  
17 Q. So you knew, at least at that point in  
18 time, that Mr. Owensby had been Maced, and you knew  
19 that he had been injured and that he had a cut on  
20 his head, correct?  
21 A. A minor one, yes.  
22 Q. Did you do anything to administer any type  
23 of first aid?  
24 A. Not at that time, no.

AFFIDAVIT

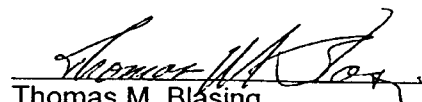
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STATE OF OHIO :  
COUNTY OF HAMILTON : SS  
:

I, Wendy Davies Welsh, Notary Public in and for the State of Ohio,  
do hereby state that the transcript of the deposition of  
Robert B. Jorg, deponent herein, having been submitted  
to said deponent for review and signature, has not been signed  
within the thirty (30) day period allowed under the Federal Rules; said  
deposition to now have the same force and effect as though signed.

  
Wendy Davies Welsh, Court Reporter

Sworn to before me this 5<sup>th</sup> day of January, 2004

  
Thomas M. Blasing  
Notary Public - State of Ohio  
My commission expires: May 4, 2004